

1 IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PA.

2 CIVIL DIVISION

3 \* \* \*

4 CHRISTINE BIROS, )

5 Plaintiff, )

6 vs. )

No. #4486 of 2017

7 U-LOCK INCORPORATED )

8 Defendant. )

9 \* \* \*

10 HEARD: 4/22/2022

11  
12 BEFORE: Harry F. Smail, Judge

13 \* \* \*

14 MOTION TO STRIKE

15 \* \* \*

16 A P P E A R A N C E S

17 On behalf of the Petitioner:

18 J. Allen Roth Esquire

19 On behalf of the Respondent:

20 William E. Otto, Esquire

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WITNESS:

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CHRISTINE BIROS

Direct Testimony by Ms. Biros

GEORGE SNYDER

Direct Testimony by Mr. Snyder

1 4/22/2022 - 10:30 a.m.

2 P R O C E E D I N G S

3 \* \* \*

4 THE COURT: We will call the case in  
5 regard to Christine Biros an individual as plaintiff  
6 versus U-lock Incorporated, a Pennsylvania corporation  
7 as the defendant at the Court of Common Pleas level  
8 #4486 of 2017. The court will note Mr. Roth that you  
9 filed this under a caption indicating Christine Biros,  
10 plaintiff v. Denise Shore, executor of the estate of  
11 Alex Shore, Emory L. Moore, and Susan Stano co-executor  
12 of the estate of Nicholas Shore, Cathleen S. Walter,  
13 executor of the estate of Michael Shore, Cynthia Sear,  
14 administrator of the estate of Ann Sear, and U-lock  
15 Incorporated as a Pennsylvania Corporation, the  
16 defendant at case #4886 of 2017. Although there was a  
17 prior order of court that struck all of those parties.  
18 So why did you file your motion in that fashion because  
19 clear up through the Supreme Court filings it is  
20 Christine Biros as the plaintiff and/or respondent and  
21 U-lock Inc, a Pennsylvania Corporation, as the  
22 petitioner or the defendant.

23 MR. ROTH: You are right, Your Honor. It  
24 should have been done that way.

25 THE COURT: It should not have been done

1 that way. You filed this at the Prothonotary of Record  
2 and indicated all of these parties and it is now on  
3 record based on your filing as of March 17th of 2022. I  
4 need an answer as to why you are basically violating my  
5 order of court.

6 MR. ROTH: I am not wanting to violate  
7 the order. It should have just been done the other way.  
8 I am sorry about that. It should have just been done  
9 the other way. You are right about that.

10 THE COURT: The problem is that it  
11 includes parties that are not subject to the litigation  
12 and gives the impression to the public and the  
13 Prothonotary filed that they are still subject to the  
14 litigation when in fact they were stricken because they  
15 were not parties.

16 MR. ROTH: I understand.

17 THE COURT: I am going to order you to  
18 file some kind of a corrective order that indicates that  
19 the motion was filed under this caption that should have  
20 been filed under the other caption and request that the  
21 court order the Prothonotary to note that in the record.  
22 So it could be a one page order with the way it was  
23 filed under caption, what caption should be, and then an  
24 order of court reflected below saying the Prothonotary  
25 is to note this in the file by way of corrections.

1 MR. ROTH: That is fine.

2 THE COURT: So you do a cover motion and  
3 then you ask for an order so that I can get that  
4 corrected in the Prothonotary's file so should anyone  
5 look for that file or by way of further appellant action  
6 they will know these other parties are not subject to  
7 the inclusion because I am concerned that you are going  
8 to ask law clerks or the Prothonotary in different  
9 stages that are going to say, "Well, this is incorrect  
10 because you do not have all of the parties." Because  
11 they are going to have problems with the record and  
12 everything because they are going to say that you did  
13 not serve due notice when in fact buried in the past is  
14 my order of court that struck them off.

15 MR. ROTH: I understand that.

16 THE COURT: I just wanted you to note  
17 that so if you can get that fixed some time by the  
18 middle of next week so we can get that corrected.

19 MR. ROTH: That would be fine.

20 THE COURT: We are here on your motion  
21 and I will let you go ahead and proceed. That is the  
22 petition to strike the order of January 20th, 2022 and  
23 all the other considerations. You are free to proceed.

24 MR. ROTH: Before the court is U-lock's  
25 omnibus motion for relief based on this court rendering

1 an order without notice to it on January 20th, 2022.  
2 That order released deeds that were in the court's  
3 custody to Christine Biros. I am not sure how or why  
4 this order was issued. No notice was provided to me and  
5 it is unclear if counsel for Christine Biros asked for  
6 this court to issue the order or if this court just  
7 issued the order on its own. Either way U-lock has a  
8 due process right to be noticed and to be heard. While  
9 the Supreme Court denied leave to appeal it did not  
10 remand the record to this court. The court was and  
11 still is without jurisdiction.

12 When the court entered the order it  
13 states that notice was given as required by Rule 236.  
14 However, there is no CC at the bottom of the order and  
15 my office did not receive it. Therefore, there is no  
16 certification that it was served or mailed to my office.  
17 We believe the notation in docket is in error. It was  
18 mailed to us. If it was mailed to us, who mailed it to  
19 us and where is the designation that that happened? So  
20 we had no idea that this happened. Because we did not  
21 know about the order and no notice was given to us that  
22 anyone sought or planned on issuing an order we could  
23 neither appeal or seek reconsideration. In the interim,  
24 we received a stay from remanding the record from the  
25 Supreme Court on March 16th, 2022 and they still have

1 the case. That order was served on this court by the  
2 Supreme Court.

3 There are several reasons why this order  
4 is prejudicing us. First, both this court and the  
5 Superior Court held that the corrective deeds granted to  
6 U-lock were valid and legally transferred ownership.  
7 This court ruled that Christine Biros gets the property  
8 through a constructive trust and the Superior Court  
9 agreed. So the deeds cannot be from the original seller  
10 to Christine Biros. They must be judicial deeds from  
11 U-lock as trustee for Christine Biros to Christine  
12 Biros. There are serious tax consequences for U-lock  
13 and potential investor law suits for U-lock shareholders  
14 as a result of the way this happened.

15 Simply put, we believe that the order was  
16 improperly entered without notice to us. So we ask for  
17 it to be stricken. Christine Biros can seek proper  
18 judicial deeds as soon as the record is remanded. Those  
19 deeds must be from U-lock as trustee in a constructive  
20 trust to Christine Biros. Alternatively, if this court  
21 feels that it does have jurisdiction it must serve the  
22 order on my office under rule 236 and correct the docket  
23 to show the date. That correction will allow U-lock to  
24 appeal the order so the appeal court can determine if  
25 the court had jurisdiction.

1 THE COURT: Mr. Otto, would you like to  
2 respond to his motion and then we will move to your  
3 motion once we are concluded here and you will have a  
4 chance to respond.

5 MR. OTTO: Your Honor, I am pretty  
6 disappointed in Mr. Roth. You could conclude from his  
7 discussion that he has a real concern about legal  
8 process and procedure. Unfortunately, he has failed in  
9 his duty of candor to this court because he had not  
10 explained why they want these deeds to be withdrawn and  
11 new deeds to be ultimately reissued. The reason is  
12 because approving his motion would effectively result in  
13 returning the property to U-lock permanently and  
14 depriving my client of the property both in title and  
15 possession.

16 The reason for that is because in August  
17 of last year Shanni Snyder, the sister of George and  
18 Cash Snyder who are the controller parties of U-lock  
19 filed an action in several district courts. As a result  
20 of that she got a default judgement against U-lock for  
21 unpaid wages. Now the interesting thing -- and I have a  
22 couple of documents to deliver. This is all evidence,  
23 Your Honor. None of this is contrived or made up. That  
24 is the docket sheet for the case. This is Shanni  
25 Snyder's complaint where she claims that she worked for



1 U-lock from 2016 through 2020 for ten hours a day from  
2 the hours of 5 P.M. to 3 A.M. monitoring video cameras  
3 on the property and that she is owed back wages in the  
4 amount of over \$130,000. After she filed that case --  
5 now one quick comment about her claims that she worked  
6 for U-lock, Your Honor, during the trial Mr. Cash Snyder  
7 was questioned. That is a copy of the relevant pages of  
8 the transcript. If I could read this?

9 THE COURT: You may.

10 MR. OTTO: Question: To your knowledge  
11 did anyone help Mr. Roth with the plea or the documents  
12 that have been filed?

13 Answer: To my knowledge? No. I know  
14 his paralegal and my sister and George have been  
15 helpful.

16 Question: What involvement did your  
17 sister have in all of this?

18 Answer: Just like you said helping with  
19 the documents.

20 Question: But she is not a shareholder,  
21 director, or officer, correct?

22 Answer: Correct.

23 Question: Is she like a friend to the  
24 court?

25 Answer: No. She is loved one, I guess.

1 Question: What is her background?

2 Answer: Nothing. Nothing legal if that  
3 is what you are asking. She is just a run-of-the-mill  
4 layman.

5 Question: What involvement did she have  
6 in the company?

7 Answer: None in the company.

8 If I may continue, You Honor?

9 THE COURT: You may.

10 MR. OTTO: Service was made on Mr. George  
11 Snyder. I have proof of that service. As a result of  
12 the failure to respond either by filing an answer to the  
13 complaint or showing up for the dispute resolution Ms.  
14 Snyder filed a motion for default judgment for back  
15 wages and post- and pre- judgement interest in the  
16 amount of over \$130,000. The second page of that, Your  
17 Honor, is just the service. As a result of that motion  
18 Judge Colville in federal court authorized the default  
19 judgement and scheduled an evidentiary hearing. So an  
20 argument was held.

21 If you turn to the very last page, Your  
22 Honor, you will see the order remarks. Mostly it says  
23 that the court notes it has reviewed the entire record  
24 prior to hearing, law clerk administers oath to  
25 plaintiff, plaintiff testifies, court finds that default

1 judgement is appropriate and applies reason. That is  
2 the sole substance of the matter in the federal court  
3 except that the court then entered an order granting Ms.  
4 Snyder her claim for the \$130,000 but also awarded an  
5 additional amount of liquidated damages of another  
6 \$131,000. It is not clear to me how she got that but  
7 nevertheless that is in her judgement. Again, Your  
8 Honor, keep in mind that this was a default judgement by  
9 their sister. So they got this judgment. Why would  
10 they go to this trouble and why wouldn't Mr. Roth  
11 explain this? Near the last of the docket sheet that  
12 you have, Your Honor, you will see that she got an  
13 abstract which she then transferred to Westmoreland  
14 County. The abstract says at the very top -- first off,  
15 it is a judgment for \$262,702 and \$402 in cost. It says  
16 at the top pursuant to title 28 -- I will give you a  
17 copy of this so you can follow along.

18 This judgement upon the filing of this  
19 abstract and the manner in which a notice would be filed  
20 under paragraphs 1 and 2 of 26C6323 creates a lien on  
21 all real property of the defendant and has priority over  
22 all of the liens and encumbrances that are protected  
23 later in time. The lien created by this action is  
24 effective unless satisfied for a period of 20 years.

25 Now this is where we get to the crux of

1 the problem, Your Honor. Back in May of 2019 after the  
2 trial in which you had dismissed the estates part of the  
3 arrangement with the estates is that they would pay  
4 \$10,000 which they paid and which I applied to the  
5 taxes. The second part of that was that they would  
6 deliver 8 deeds total. Four of which confirmed the  
7 title of the property in U-lock and four of which voided  
8 U-lock's deeds and transferred the title directly from  
9 the estates to my client.

10 Now the fly in ointment that Mr. Roth has  
11 not explained are is that those deeds are all dated May  
12 of 2019 which predate Shanni Snyder's judgement. So if  
13 you approve their order and the title goes back to  
14 U-lock that lien will stay on there no matter what else  
15 happens. They have locked this up. Now if you go back  
16 to Mr. Roth's motion for a moment. Mr. Roth has made  
17 some interesting statements and when I initially read it  
18 my thought was why would he assert the improper action  
19 by a judge in which he asked to practice? Why would he  
20 assert that there was some action on the part of the  
21 judge that resulted in a loss of U-lock's civil rights?  
22 The only thing I can say, Your Honor, is that you have  
23 that in front of you.

24 I believe that Mr. Roth knew about this.  
25 He was in a panic to get the motions in front of you to

1 change the deeds and he has failed to explain the full  
2 background of why this is important to U-lock. My  
3 recommendation to Your Honor is that I believe that you  
4 could go one of three ways. Obviously you could approve  
5 his motion. Second, you could deny it outright. Third,  
6 which I suggest is that you take it under advisement and  
7 hold it on the off chance that Mr. Roth might later want  
8 to withdraw the motion. Primarily I think that Mr. Roth  
9 has been involved in this. I think that there has been  
10 a lot of improper activity in this case and I believe  
11 that that judgement that Shanni Snyder got in court is a  
12 fraud on the federal court and could potentially be a  
13 fraud on this court.

14 I do not think it is my client's  
15 responsibility to investigate that fraud. I think that  
16 should go to law enforcement to investigate. I think  
17 there are some serious problems with Mr. Roth's behavior  
18 and I think there are some serious problems with Mr.  
19 Snyder's behavior. Unfortunately as we heard during the  
20 course of the trial the Snyders either do not have or  
21 have effectively hidden all of their assets but Mr. Roth  
22 has his own assets and I think there should be  
23 sanctions. That is why I have submitted a motion of  
24 sanctions to you.

25 A good part of Mr. Roth's motion should

1 be considered moot after he received the denial of his  
2 petition to the Pennsylvania Supreme court. That was  
3 issued in January of this year. He asked for a delay in  
4 the remand so they could file an appeal to the U.S.  
5 Supreme Court. Their time to do that was the close of  
6 business on the 19th of this month. Unless Mr. Roth is  
7 willing to stand up and say an appeal has been filed I  
8 checked the docket yesterday and there is no U.S Supreme  
9 Court appeal or petition.

10 THE COURT: Mr. Roth, did you file for  
11 certiorari?

12 MR. ROTH: I have not to my knowledge.

13 THE COURT: So the order from the  
14 Superior Court is a denial in January with leave of  
15 court that gives you 90 days to file for writ of  
16 certiorari to the U.S Supreme Court. You have not filed  
17 that. After the denial your position is that it was not  
18 appropriate to allow for the deeds to be ordered in the  
19 fashion the court did in January 20th because they did  
20 not submit the record back. You were denied your  
21 appeal, correct?

22 MR. ROTH: I understand that.

23 THE COURT: You had the opportunity to  
24 file a writ of certiorari to the U.S Supreme Court like  
25 you represented to the Superior Court of Pennsylvania

1 that you were going to do. You did not do that. What  
2 basis do you have for me to reverse or vacate my January  
3 20th order other than your claim that because they held  
4 the record I am outside of my jurisdiction which is not  
5 accurate because the Common Court of Pleas can still  
6 move forward on various issues to continue to protect  
7 the parties relative to a prior action especially after  
8 a denial of appeal is rendered by the last appellate  
9 court in the Commonwealth of Pennsylvania.

10 MR. OTTO: Your Honor, if I may, I have  
11 one other item. This probably has slipped your  
12 recollection but when the arrangement was made with the  
13 estates to issue those deeds, those deeds were reviewed  
14 by both Mr. Roth and I. There were changes made as a  
15 result of our request --

16 THE COURT: There was also a monetary  
17 component of the \$10,000 which was provided, accepted,  
18 cashed out, and received.

19 MR. OTTO: Yes. So Mr. Roth had the  
20 opportunity to object to those deeds at the time. He  
21 had the opportunity to object to the delivery of those  
22 deeds or of the transfer of those deeds in his appeal  
23 and he failed to do that. He is now trying to come back  
24 and say we should have to go through another procedure  
25 to open that up. of course with the judgement of the

1 federal court you can see what that would result in.

2 THE COURT: Mr. Otto, while I have your  
3 attention, in January of this year did you and I have  
4 any communication because I cannot recall any  
5 communication?

6 MR. OTTO: You and I have never spoken  
7 outside of this courtroom.

8 THE COURT: The only thing that we  
9 received was notice from the Supreme Court that the  
10 appeal was denied and then obviously the deeds that were  
11 escrowed were now available for release.

12 MR. OTTO: My paralegal called your  
13 office. I did not speak to you or your office. My  
14 paralegal called and said we got the Supreme Court  
15 decision. We would like to pick up the deeds. Do you  
16 want us to submit an order or do you want us to send you  
17 a letter? How do you want us to proceed? What was told  
18 to us was to prepare an appropriate order and you would  
19 review it. That is what we did. At no time did you and  
20 I speak.

21 THE COURT: Your office fulfilled the  
22 directive of my law clerk simply to submit an order from  
23 you for me to consider unilaterally. Based upon that  
24 any allegation of *ex parte* communication or misconduct  
25 by this court are not valid.



1 MR. OTTO: I would agree with that, Your  
2 Honor.

3 THE COURT: Then your belief or the other  
4 assertion that it was *sua sponte* done by my own volition  
5 is not accurate either because it was triggered by the  
6 Supreme Court's denial from the Pennsylvania Supreme  
7 Court it's denial and then you simply acknowledging  
8 through your law clerk that now the escrow deeds can be  
9 released. That was done by staff to staff not you and  
10 I.

11 MR. OTTO: Correct, Your Honor.

12 THE COURT: Thank you. I wanted to make  
13 sure we have that clear on the record.

14 MR. OTTO: Yes, sir. That is frankly why  
15 Mr. Roth's allegation is so disturbing because it is a  
16 serious charge. If the stakes were high enough I might  
17 make that assertion. If this was a murder trial and I  
18 thought that there something improper I might make that.  
19 Short of that I would not put it in a pleading, Your  
20 Honor.

21 THE COURT: I appreciate that. Thank  
22 you, Mr. Otto. Mr. Roth, we are back to you then.  
23 After the denial of your appeal by the Pennsylvania  
24 Supreme Court and your position -- I am trying to wrap  
25 myself around the argument why I do not have

1 jurisdiction at that point in time to release the deeds  
2 which is the last component of the Common Pleas court  
3 case because you had leave to file for certiorari to try  
4 to establish a U.S. Supreme Court issue related to this  
5 case but you did not even go to that measure to do it so  
6 why would I vacate this order at this time? If you can  
7 connect all that together for me and explain it I am  
8 certainly available to take all of this under advisement  
9 and proceed accordingly.

10 MR. ROTH: It was our belief that until  
11 they remand the case to here that you did not have  
12 jurisdiction. That was our belief. That is why we  
13 filed --

14 THE COURT: They did not remand it here  
15 because you requested that they held the record and stay  
16 the record's transmission. That does not stop their  
17 denial which they denied. They did not grant you the  
18 appeal. So then do I -- I guess my question is do you  
19 have any precedent law that would indicate then that the  
20 Common Pleas court then could not close any remaining  
21 legal loop holes that are still out there and are not  
22 completed because you exhausted all of your appeals  
23 through the Commonwealth of Pennsylvania?

24 MR. ROTH: I understand that. Could I  
25 have one moment to consult with someone from U-lock?

1 THE COURT: That is fine. Let us take a  
2 ten minute break and we will reconvene at 11 o'clock.

3 RECESS TAKEN AT 10:50 a.m.

4 COURT RECONVENED AT 11:00 a.m.

5 THE COURT: Mr. Roth, you have had an  
6 opportunity then to speak to your client?

7 MR. ROTH: Yes. I did. The first thing  
8 that I can say, judge, is that with regard to Shanni  
9 Snyder I did not know anything about any of that stuff  
10 that went into evidence here. I had nothing to do with  
11 it. I did not know anything about it.

12 THE COURT: How could you not know about  
13 it?

14 MR. ROTH: I did not.

15 THE COURT: You represent U-lock,  
16 correct?

17 MR. ROTH: That is true.

18 THE COURT: They are the defendant in a  
19 western district federal action and you did not know  
20 about it?

21 MR. ROTH: I did not even know that they  
22 were a defendant. I did not know that.

23 THE COURT: Are you the advertised  
24 counsel for the corporation?

25 MR. ROTH: I do not know if I am

1 advertised.

2 THE COURT: Well, Shanni knows it,  
3 correct? She knows that you are the attorney, right?  
4 Did she serve you?

5 MR. ROTH: She probably does but I was  
6 not served at all. I did not know anything about this  
7 stuff. I really did not.

8 THE COURT: Then who got served then  
9 Mr. Roth because I see that no one responded but the  
10 Western District court was satisfied that it met all of  
11 the federal rule requirements for notification and  
12 service. So someone either had to sign it or a process  
13 handler slapped it on someone's chest. You were not  
14 made aware of any of that?

15 MR. ROTH: I did not know anything about  
16 that until today.

17 THE COURT: Do you understand Mr. Otto's  
18 position that that federal lien attaches immediately  
19 should I have reversed or in other ways vacated my order  
20 of court?

21 MR. ROTH: Well, I did not know that but  
22 I understand what you are saying.

23 THE COURT: Do you understand that now?

24 MR. ROTH: Yes. I do.

25 THE COURT: Anything further you want to

1 make with regard to your argument?

2 MR. ROTH: No. That is all I have.

3 THE COURT: Mr. Otto?

4 MR. OTTO: If I could just add two more  
5 things. As I am sure you are aware, when the Supreme  
6 Court responded to Mr. Roth's request for a delay and  
7 remand in the record at my request they directed U-lock  
8 to pay the unpaid property taxes on the property. That  
9 is the second page of that docket, Your Honor.

10 THE COURT: That is correct. That is the  
11 March 16th, 2022 order by the Pennsylvania Supreme  
12 Court.

13 MR. OTTO: Yes, sir. As of yesterday  
14 those taxes remain unpaid and accruing interest. It has  
15 been over three months.

16 THE COURT: Mr. Roth, in relation to your  
17 representation it appears there is an amount of  
18 \$20,151.02 in outstanding taxes that are owed. This  
19 order was issued March 16th, 2022. We are now in April  
20 22 of 2022. Why aren't the taxes paid?

21 MR. ROTH: We expect those to be paid  
22 within 14 days, Your Honor. That is where we are.

23 THE COURT: No partial payment? Nothing  
24 came in during the intervening time from the order apart  
25 from the Pennsylvania Supreme Court?

1 MR. ROTH: I was just told that it will  
2 be paid within 14 days.

3 THE COURT: Well Mr. Otto, there is your  
4 answer. That is what they are claiming will occur.  
5 Anything further Mr. Roth on your motion because I have  
6 two motions from Mr. Otto relative to his presentation.

7 MR. ROTH: Nothing further.

8 THE COURT: Mr. Otto, you can proceed  
9 with your motion.

10 MR. OTTO: I do have one last item in  
11 this case, Your Honor. This is a *praecipe* in a matter  
12 that Shanni Snyder currently has in this court. What  
13 she says is pretty clear there. She says she is a  
14 judgement creditor of U-lock and I presume that is based  
15 on her federal court judgement that we have been  
16 discussing. It also says -- it is represented that she  
17 has a lien on the above referenced property. If you  
18 look at the next page that is a legal description of the  
19 legal property we have been discussing. As you know,  
20 Your Honor, this is an invalid and untruthful filing.

21 THE COURT: Yes. There is no way she can  
22 have a lien on property that U-lock does not necessarily  
23 owned by way of the escrow deeds.

24 MR. OTTO: Obviously she is not in the  
25 court and this is not your case in front of you. I also

1 noticed you are a party.

2 THE COURT: I am.

3 MR. OTTO: I thought you might be  
4 interested in understanding that she has committed  
5 perjury by signing a filed document with this court.

6 THE COURT: Mr. Roth, do you want to even  
7 address that relative to the Shanni Snyder case versus  
8 your client, myself, other attorneys, the attorney  
9 general of Pennsylvania. She has sued pretty much the  
10 law here.

11 MR. ROTH: I am sorry. There is nothing  
12 I can say about it.

13 THE COURT: You do not know if what she  
14 represented to the court is verifiable and verified as  
15 authentic for true representation to the court?

16 MR. ROTH: I do not know anything about  
17 it.

18 THE COURT: She is not your client?

19 MR. ROTH: She is not. No.

20 THE COURT: Obviously Mr. Snyder that is  
21 your sister. It may be wise to warn her that if these  
22 things are filed in either a misrepresentative fashion  
23 or an ignorant fashion or with intent to defraud anyone  
24 relative to the cases that it could resolve not on the  
25 civil division but it could resolve in the criminal

1 division. That being stated I am simply putting that  
2 there for your consideration that certainly she should  
3 consult with an attorney relative to that.

4 As far as what her designated category is  
5 because she has a federal lien I do not know if it  
6 allows for her to be the plaintiff party in this case or  
7 not but if it is a falsehood that she bases it upon and  
8 it comes to the surface because the courts are involved  
9 and the county is involved through Frank Schiefer, the  
10 reporter of deeds. There are mandatory reporting  
11 requirements relative to misconduct even by a *pro se*  
12 litigant that could result in a criminal review. I am  
13 not sure if he would be interested in pursuing it but I  
14 can tell you that Josh Shapiro and the Attorney  
15 General's office if they think there is some malfeasance  
16 may take it on themselves. I am just, again, trying to  
17 articulate that for that information to be passed  
18 forward. Okay? Mr. Otto, you have two motions so let's  
19 begin.

20 MR. OTTO: Let me address the motion for  
21 sanctions first. Although it is much thicker it is a  
22 lot simpler. Basically, Your Honor, from the beginning  
23 of this case all the way through to Mr. Roth's filing of  
24 the petition for allowance with appeal to the Supreme  
25 Court Mr. Roth has made allegations on behalf of his



1 client that my client has been involved in wrongdoing  
2 and that the source of her funds renders her claim  
3 invalid. At every stage the courts have said it is not  
4 relevant and yet he has continued to assert that. My  
5 client has been damaged by that and I would like the  
6 court to entertain this motion for sanctions against  
7 Mr. Roth and his client.

8 THE COURT: The sanction amount that you  
9 are requesting is an amount of \$20,000 which appears to  
10 be large. If you can give me some factual basis why, is  
11 there some kind of attorney client billing or something  
12 that is --

13 MR. OTTO: I have detailed billings, Your  
14 Honor, that I would be happy to provide to the court. I  
15 obviously do not have them with me.

16 THE COURT: I would ask that you submit  
17 those especially with the portions highlighted as to the  
18 substance of your request for sanctions and how they are  
19 associated with it or actually reflective of your  
20 billing because I must review that before I can even  
21 entertain a sanctioned order as required. Whenever you  
22 are done I will let you get the points in then I will  
23 let him respond to this and then we will get to the  
24 other matter.

25 MR. OTTO: I understand. As we all

1 understand our clients drive our general strategies. I  
2 believe that these actions were taken by Mr. Roth at the  
3 urging of his client so I would ask that the sanctions  
4 be imposed not only against Mr. Roth but also against  
5 George and Cash Snyder in their individual capacities.  
6 None of this would have happened if they had not pushed  
7 Mr. Roth to do it.

8 THE COURT: Anything further?

9 MR. OTTO: No, Your Honor. That is it.

10 THE COURT: Mr. Roth, you may respond to  
11 the motion for sanctions.

12 MR. ROTH: Your Honor, the rule requires  
13 we be given 28 days notice. We have an opportunity to  
14 rescind what we have done in the past. We did not get  
15 the 28 days notice in this case. Once we get that  
16 notice we can decide whether we want to withdraw it or  
17 not withdraw it. I believe that is how this works.

18 THE COURT: I believe he is talking about  
19 a course of conduct that has continued throughout the  
20 case even though various order from the court both at  
21 this level and the Supreme Court have been rendered that  
22 you keep raising issues that Judge Marsili way before I  
23 even became involved in this case ordered you not to  
24 consider relative to this case. Therefore, source of  
25 funds albeit in any form or fashion had no relevance and

1 was ruled that way by Judge Marsili yet you continue to  
2 raise it in your pleadings throughout. This is not an  
3 isolated one time issue in the last 28 days that you can  
4 just withdraw it. It has been going on since the  
5 inception of the case. It is my understanding that the  
6 first filing was in 2017 so we are five years into this.  
7 I believe that the ruling by Judge Marsili was in 2018.  
8 So that was four years ago when that ruling came out.  
9 My question to you Mr. Roth is why should I not be  
10 compelled to consider the sanctions?

11 MR. ROTH: Well, I believe we were  
12 supposed to have an opportunity to withdraw those once  
13 we get notice --

14 THE COURT: You can withdraw within the  
15 timeframe of your last pleading whatever that might be  
16 within 28 days. The question is although I have seen a  
17 lot of -- I do not know how I am going to word this,  
18 offensive or alarming items in your current motion but  
19 that particular portion of it could possibly be  
20 corrected as you are indicating but what about all the  
21 dozen pleadings where your suggestion is that this is  
22 ill-gotten monies utilized in the pursuit of an outcome  
23 favorable to Christine Biros because that is what they  
24 are asking for. They are saying this is -- should you  
25 want to take it from Judge Marsili to the present so

1 they are really reflecting on a four year pattern of  
2 behavior where you keep going back to the same libelous  
3 or slander-oriented generation of funds because you are  
4 perceiving it or representing that it was done in some  
5 criminal fashion to achieve the amount of money tendered  
6 to gain the deeds.

7 MR. ROTH: I do not really have an answer  
8 for that, Your Honor.

9 THE COURT: That is why he is asking for  
10 \$20,000 in sanctions because you were not deterred by an  
11 order of court by Judge Marsili. I guess my question is  
12 why should I not consider their request now for  
13 sanctions which probably could have been filed back in  
14 the 2018 and filed multiple ones each time that you did  
15 it. Why he did not do that? I do not know. That might  
16 mitigate whether or not he gets them. Did he waive  
17 that?

18 MR. ROTH: I believe we have the  
19 opportunity to withdraw.

20 THE COURT: The whole thing?

21 MR. ROTH: Yes. All of the things and we  
22 have to be given 28 --

23 THE COURT: After the public has already  
24 had access to look at it and review it and consider  
25 whether or not they perceive the plaintiff, Christine

1     Biros, in a good light or a bad light? Then what? You  
2     withdraw it and then it is as if it did not exist but  
3     after that the smell is already out there. Just because  
4     you got rid of the skunk does not mean that it did not  
5     already happen.

6                     MR. ROTH: We believe we should have the  
7     right to withdraw for 28 days.

8                     THE COURT: What is your basis for that?  
9     Do you have case law or something that supports that?

10                    MR. ROTH: I thought that the rule  
11     indicated that?

12                    THE COURT: A rule of civil procedure?

13                    MR. ROTH: Rule 208 or --

14                    THE COURT: You are the one who is  
15     representing the fact. You tell me. I will be happy to  
16     look the rule up.

17                    MR. ROTH: I believe that Rule 208  
18     indicates that we have 28 days to withdraw the  
19     allegations. That is what I believe.

20                    THE COURT: Do you know what subsection  
21     that might be?

22                    MR. ROTH: I do not know that off the top  
23     of my head. No.

24                    THE COURT: Well rule 208 has four  
25     subsections. Would you like to look at the rule and

1 cite it for me?

2 MR. ROTH: I will look at it.

3 THE COURT: Come on forward. Here you  
4 go. It begins over here and it goes over to here. If  
5 you can find it in there I would certainly like to  
6 review it.

7 MR. ROTH: May I step out into the hall?

8 THE COURT: No. Find it here.

9 MR. ROTH: If I could call my paralegal I  
10 would try to determine where it is at. Can I step out  
11 in the hall and call my paralegal?

12 THE COURT: No. There are some  
13 assertions here that you have been using some other help  
14 from Shanni Snyder or some person who is not licensed to  
15 practice law. So if it is your position and you are the  
16 licensed attorney and you are representing to me in this  
17 court that there is a Pennsylvania rule of civil  
18 procedure that directs me or binds me to allowing you to  
19 withdraw out of the proceedings any erroneous thing that  
20 you claim you put in relative to a matter that might  
21 incur damages by way of slander or libel then show me.

22 MR. ROTH: I cannot find it.

23 THE COURT: Any other response you want  
24 to make then other than your assertion on rule 208?

25 MR. ROTH: No. That is all.

1 THE COURT: Mr. Otto, you have a second  
2 motion relative to possession, I believe?

3 MR. OTTO: Yes, Your Honor. First of  
4 all, this is a declaratory judgement and under the  
5 declaratory judgement act this court is entitled to  
6 issue or impose any relief for the parties which it may  
7 deem appropriate either before or after judgement. So  
8 with that, what I would ask for from this court is an  
9 immediate writ of possession so that we can take actual  
10 control of the property. As you will note in my motion  
11 number one, the taxes have not been paid. Supposedly  
12 those are going to be taken care of in 14 days. We will  
13 see.

14 The second thing is that we have received  
15 citations from the township blight enforcement office of  
16 North Huntington Township. It is our understanding that  
17 they have been unable to effect service of citations on  
18 Mr. Snyder. So they have been unable to enforce the  
19 clean up orders against U-lock. As a result when they  
20 saw that the title were changed when we recorded the  
21 deeds in January they sent my client a citation. I  
22 spoke to the code enforcement officer and he said that  
23 his purpose was really to start a conversation. We know  
24 that you are not in control but we do need the property  
25 cleaned out. We cannot do anything when we do not have

1 possession of it, Your Honor.

2           The decision of the Supreme Court was  
3 done. We are entitled to possession. There is no  
4 reason that it cannot be delivered to us. They raised  
5 the issue of the tenants, it is a series of lockers and  
6 storage sites. We have no problem whatsoever, Your  
7 Honor. We will blockade the site then if they will give  
8 us lists of their clients we will send out notice  
9 letters to them telling them to come and pick up their  
10 stuff. If people do not come we will advertise for it.  
11 At the end of that we will do what we are entitled to do  
12 with unclaimed property. In the meantime if we can get  
13 possession of the property we can get it cleaned up.

14           THE COURT: Are you in possession of  
15 Mr. Roth's response? To the form which I do not agree  
16 that it is in the proper form by way of representation  
17 that these are a preliminary objections they would be a  
18 response to the motion for possession but the one that  
19 caught my attention the most is the eviction requirement  
20 relative to a declaratory judgement to possession and  
21 the process attached there to. Our view and research is  
22 that possession can be granted and then if they do not  
23 leave that the successive action after that is then  
24 eviction. Because you have to gain possession before  
25 and be the holder of possession before eviction can be



1 instituted. If you are not in possession or there is a  
2 dispute of title then you cannot get to eviction.

3 MR. OTTO: Your Honor, the rules of civil  
4 procedure describe the action of ejectment and if we  
5 were doing an action of ejectment then those are the  
6 rules we have to follow. As I said the declaratory  
7 judgement act gives you the jurisdiction and authority  
8 to issue any reasonable relief. It is my view that  
9 possession, if we have to, we could arrange for security  
10 to go down and secure the property and take care of it  
11 that way, Your Honor.

12 THE COURT: Anything further?

13 MR. OTTO: Mr. Roth has filed preliminary  
14 objections. There is no legal authority cited in it  
15 other than a citation to the rules. He has already  
16 voiced his opinion. My assertion goes back to the  
17 declaratory judgement act.

18 THE COURT: What is your position with  
19 the form in compliance with the Pennsylvania rules of  
20 civil procedure relative to preliminary objection  
21 format? I mean, it does not to appear to be anywhere  
22 close to the requirement.

23 MR. OTTO: Notice to plead is never  
24 required. The only thing about notice to plead is that  
25 if it is on a pleading that the person to whom it is

1 delivered is required to respond in 20 days. I am not  
2 required to put it on. I did not ask for a response  
3 upon from him. If I wanted him to respond then I would  
4 have put it on the notice to plead.

5 THE COURT: You simply noticed that you  
6 are doing a motion.

7 Mr. OTTO: Correct, your Honor.

8 THE COURT: Then everyone comes to  
9 motions and deals with your motion as you placed it out.

10 MR. OTTO: I do not believe there is a  
11 requirement that a notice to plead be used. It is only  
12 a requirement if there is a notice to plead that the  
13 respondent must respond within 20 days.

14 THE COURT: Preliminary objections are  
15 not the appropriate response to a motion. Obviously it  
16 is a response to a motion in accordance to the  
17 Pennsylvania rules of civil procedure then you can  
18 request additional action as part of your pleading  
19 within a second component therein, not a preliminary  
20 objection to strike it as if it was part of a condensed  
21 or multi-count complaint.

22 MR. OTTO: Yes, Your Honor.

23 THE COURT: Mr. Roth, we can go down  
24 through what you filed.

25 Mr. ROTH: First of all, the petition

1 does not have a petition for verification on it. I  
2 believe the rules require there to be a verification.

3 THE COURT: Mr. Otto, were these filed  
4 together and there was one verification by Christine  
5 Biros?

6 MR. OTTO: No.

7 THE COURT: Were you authorized, Mr.  
8 Otto, by your client to request the possession of the  
9 property?

10 MR. OTTO: Yes, Your Honor.

11 THE COURT: Are you representing that as  
12 an officer of the court?

13 MR. OTTO: I am.

14 THE COURT: Ms. Biros, please stand and  
15 raise your right hand.

16 CHRISTINE BIROS, having been  
17 first duly sworn, was examined  
18 and testified as follows:

19 \* \* \*

20 DIRECT EXAMINATION

21 BY THE COURT:

22 Q. Did you authorize Mr. William E. Otto to file  
23 these two motions?

24 A. I did.

25 Q. One for possession and one for sanctions?

1 A. Yes.

2 Q. Do you verify that any and all information  
3 therein contained therein is the truth as far as you  
4 know under penalty of the law?

5 A. Yes, sir.

6 Q. Did you review these motions before you came  
7 here today and did you review everything that was in  
8 them?

9 A. Yes, sir.

10 THE COURT: Thank you. You may be  
11 seated. Mr. Roth, the rule may indicate that but if  
12 there is an oversight that is not fatal and she is here  
13 on the record after being duly sworn in and subject to  
14 perjury she did verify to the court's satisfaction that  
15 both pleadings are appropriate. Please proceed.

16 MR. ROTH: The next thing is that there  
17 are significant property rights involved in the  
18 potential liabilities.

19 THE COURT: Why are you filing this as  
20 preliminary objections and not as a response to the  
21 motion? Like, two separate responses to the motion.  
22 Your format is inappropriate for review by the court.  
23 My question to you is why did you file it as preliminary  
24 objections. These are not preliminary objections. We  
25 already had a trial, an outcome, and an opinion. We had

1 an appeal to the Superior Court and an appeal of the  
2 Supreme Court. We are not at the early stage of any  
3 litigation.

4 MR. ROTH: All I can say, Your Honor, is  
5 that ejecting U-lock and the tenants will result in  
6 major landlord-tenant lost property actions and that  
7 will cause us a lot of problems.

8 THE COURT: Well, it might cause  
9 Christine Biros a lot of problems as well if she is an  
10 attached party to any litigation that is filed against  
11 U-lock is sued or if U-lock is sued by multiple  
12 plaintiffs or petitioners to the court and they add  
13 Christine Biros as an additional defendant. She is not  
14 necessarily escaping the hypothetical that might come,  
15 correct?

16 MR. ROTH: Yes.

17 THE COURT: Anything else that you want  
18 to address?

19 MR. ROTH: No, that is all.

20 THE COURT: Anything further, Mr. Otto?  
21 Wait, sorry.

22 MR. ROTH: One more thing. With regard  
23 to the clean up of the property, Your Honor. They have  
24 contacted the North Huntington township and have begun  
25 the process of doing the clean up. Now you cannot

1 remove vehicles without an authorization and the police  
2 are going to help them make that happen over this  
3 weekend is what I am told. Well, they are the ones that  
4 initiated this process to make that it happen.

5 THE COURT: I am going to take all of  
6 this under consideration. There is too much here for me  
7 to rule from the bench. I have to look to any authority  
8 that you have relative to what you requested. I have to  
9 look to Mr. Otto. Mr. Otto has got to get me a  
10 rendition of his billing to substantiate whether or not  
11 a sanction is even something that is warranted at this  
12 point in time. Are you of the position that if you get  
13 the tags this weekend that at least the vehicles would  
14 be removed off of the property?

15 MR. ROTH: Yes.

16 THE COURT: All of them? I do not know  
17 how many there are.

18 MR. OTTO: Many.

19 MR. ROTH: What happened was they asked  
20 the township to have the vehicles tagged and the police  
21 are going out there to go do it this weekend is what we  
22 have been told. Once they are tagged they can remove  
23 the vehicle.

24 THE COURT: You might need to educate me  
25 here on this because I try as much to know as much stuff

1 as possible. Doesn't the Department of Transportation  
2 have to be there or can the township or municipal police  
3 simply tag it on their own?

4 MR. ROTH: My understanding is that the  
5 municipal police can do that and then it can be removed.

6 THE COURT: Is there some designated  
7 place they have to go to per the Department of  
8 Transportation's involvement?

9 MR. ROTH: Could I ask my client?

10 TE COURT: Stand up and raise your right  
11 hand.

12 GEORGE SNYDER, having been  
13 first duly sworn, was examined  
14 and testified as follows:

15 \* \* \*

16 DIRECT EXAMINATION

17 BY THE COURT:

18 Q. Can you clear this up for me?

19 A. There are certain vehicles on the property  
20 that were abandoned. We have been trying to clean it up  
21 for years. We know the township -- they did not  
22 approach us, we approached them. We know they want it  
23 to look nice. I asked them, "Our hands are kind of  
24 tied. We cannot touch a titled vehicle."

25 He said, "Maybe see if the police will help

1 you. If they red tag that or yellow tag that then after  
2 ten days the scrap company can take it to the scrap  
3 yard. Otherwise, you will need a title to tow a vehicle  
4 and transport it to the scrap yard.

5 Q. So they have to be declared by the tag as an  
6 abandoned vehicle and then you can move them. Are the  
7 ten days burned up so at this point they can be removed  
8 this weekend?

9 A. That is my understanding. I spoke with the  
10 officer yesterday and he said he would come out this  
11 weekend and tag them. Then after 7 to 10 days we can  
12 remove them.

13 Q. So you are not going to be to be removed this  
14 weekend anyway?

15 A. No.

16 THE COURT: Mr. Otto, would you and your  
17 client agree that if they get tagged and are scrapped  
18 and removed that any of the proceeds from the scrap yard  
19 would go to U-lock if they put all of the effort into  
20 getting them off the property? I am not sure what would  
21 get out of it.

22 MR. OTTO: They have cause my client so  
23 much aggravation and so many legal fees I am not  
24 inclined to be --

25 THE COURT: Well, if before you get



1 possession they removed them and the income derived from  
2 scrapping the abandoned vehicles is theirs. You would  
3 agree with that, correct?

4 MR. OTTO: Yes and no, Your Honor. Let  
5 me explain something.

6 THE COURT: Sure.

7 MR. OTTO: Back shortly after the trial,  
8 some time in 2019, we arranged for a site visit and we  
9 took an environmental engineer with us. He went through  
10 and wrote up an extensive report. If it was just  
11 vehicles on the property, Your Honor, it might not be  
12 that big of a deal but there is all sorts of waste, Your  
13 Honor. There is municipal waste. There are barrels  
14 that may contain oil. There is just a whole morass of  
15 environmental problems there. If they get the money --  
16 if I could believe that they would use it to clean up  
17 the site that would be fine.

18 THE COURT: Your concern is that it is  
19 even going to happen?

20 MR. OTTO: Yes, sir.

21 THE COURT: If it does not happen you  
22 gain possession. Regardless of whether they tagged or  
23 not you gain possession of them by the declaratory  
24 judgement you are seeking if that is granted to you  
25 after my review and under the advisement of this

1 hearing.

2 MR. OTTO: Yes, Your Honor. If I may,  
3 Your Honor. These are the relevant provisions. That is  
4 the statute of the declaratory action and that is the  
5 rule and the rules of civil procedure.

6 THE COURT: Mr. Roth, I think that prior  
7 to rendering a decision one way or the other if you get  
8 things done within that timeline that any proceeds that  
9 are generated are theirs but if they are not done within  
10 the timeline and it should not go in your favor once  
11 possession is taken whatever is there then becomes  
12 available for the subsequent possessor to capitalize on.  
13 The issue here is based on Mr. Otto's representation is  
14 that there is probably a higher cost associated with the  
15 clean up then what can be generated by selling or  
16 scrapping and I am not just talking vehicles. I am  
17 talking about a multitude of other things. Go through  
18 your attorney first. Mr. Snyder wants to say something.

19 MR. SNYDER: I just wanted to explain to  
20 you about the title and ownership of the car. The cars  
21 do not belong to U-lock. Most of them are clients cars.  
22 One may belong to John, one to Henry, one to Steven,  
23 etc. When we tell this person who couldn't pay that you  
24 have to get this car out of here they cannot move it  
25 themselves without a title. They cannot put it on the

1 tow truck and take it. We will not really get proceeds.  
2 They would have to then apply to PennDot and get a new  
3 title. That is \$48 or something and most of them do not  
4 have the money or else they would not have lost their  
5 vehicle. They are willing to say just tag it, get rid  
6 of it, part ways.

7 THE COURT: So you have releases from  
8 owners of the vehicles to go ahead and dispose of them?

9 MR. SNYDER: Yes. If there is any money  
10 to be made it is very inconsequential. \$200 a car or  
11 something.

12 THE COURT: Then after you pay for the  
13 tow truck and everyone else to get it out of there.

14 MR. OTTO: Your Honor, I have two  
15 questions. I would ask Mr. Snyder to tell us who the  
16 police officer was that he spoke to. Second, is to get  
17 copies of the releases that he has received and that he  
18 just represented that he has so that if the cars are  
19 still there when we go to take possession we can deal  
20 with that.

21 THE COURT: Mr. Snyder is shaking his  
22 head affirmatively. Could you make copies of those and  
23 have some verification of the tags and which officer  
24 that you spoke with that is cooperating with your effort  
25 to get those out of there. So I need the owner's

1 releases for the title, the cars that are already  
2 tagged, and some kind of copy of the tag that you have.  
3 I do not know if you have to do that through cellphone  
4 photos and then print them something. Then the name of  
5 the officer that you have been coordinating with to get  
6 this done. I would ask that that be done immediately.  
7 could you have that to Mr. Otto by close of business  
8 Tuesday?

9 MR. SNYDER: Yes.

10 THE COURT: So 5 o'clock Tuesday which is  
11 the 26th of April. Anything else from either constable  
12 before I adjourn?

13 MR. OTTO: Nothing further.

14 MR. ROTH: No, Your Honor.

15 THE COURT: I will take it all under  
16 advisement. I have everything before me and I will  
17 review everything and make the appropriate rulings there  
18 after.

19 MR. ROTH: My client is asking what the  
20 timeframe is for --

21 THE COURT: If you were in here for  
22 motion's court this morning it is going to be a couple  
23 of day. We are trying to get everything together and I  
24 will get something out on this but I cannot tell you a  
25 defined day but it will be into the next week, probably

1 the following week.

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PROCEEDINGS ADJOURNED - 11:58 A.M.

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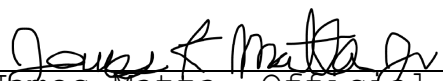
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C E R T I F I C A T E

\* \* \*

I hereby certify that the proceedings are  
contained fully and accurately in the notes taken by me  
at the hearing of the within cause and that this copy is  
a true and correct transcript of the same.

  
James Matta, Official Court Reporter